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SENATE BILL 1057

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO FAMILY LAW; ENACTING THE UNIFORM PARENTAGE ACT;
PROVIDING FOR ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP,
DETERMINATION AND REGISTRATION OF PATERNITY, GENETIC TESTING,
REGULATION OF ASSISTED REPRODUCTION AND GESTATIONAL AGREEMENTS;
AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

ARTICLE 1

GENERAL PROVISIONS AND DEFINITIONS

Section 1-101. [NEW MATERIAL] SHORT TITLE. -- Sections
1-101 through 9-903 of this act may be cited as the "Uniform
Parentage Act".

Section 1-102. [NEW MATERIAL] DEFINITIONS. -- As used in
the Uniform Parentage Act:

A. "acknowledged father" means a man who has

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1 established a father-child relationship pursuant to Article 3
2 of the Uniform Parentage Act;

3 B. "adjudicated father" means a man who has been
4 adjudicated by a court of competent jurisdiction to be the
5 father of a child;

6 C. "alleged father" means a man who alleges himself
7 to be, or is alleged to be, the genetic father or a possible
8 genetic father of a child, but whose paternity has not been
9 determined. The term does not include:

10 (1) a presumed father;

11 (2) a man whose parental rights have been
12 terminated or declared not to exist; or

13 (3) a male donor;

14 D. "assisted reproduction" means a method of
15 causing pregnancy other than sexual intercourse. The term
16 includes:

17 (1) intrauterine insemination;

18 (2) donation of eggs;

19 (3) donation of embryos;

20 (4) in-vitro fertilization and transfer of
21 embryos; and

22 (5) intracytoplasmic sperm injection;

23 E. "bureau" means the vital statistics bureau of
24 the public health division of the department of health;

25 F. "child" means a person of any age whose

1 parentage may be determined pursuant to the Uniform Parentage
2 Act;

3 G. "commence" means to file the initial pleading
4 seeking an adjudication of parentage in district court;

5 H. "determination of parentage" means the
6 establishment of the parent-child relationship by the signing
7 of a valid acknowledgment of paternity pursuant to Article 3 of
8 the Uniform Parentage Act or adjudication by the court;

9 I. "donor" means a person who produces eggs or
10 sperm used for assisted reproduction, whether or not for
11 consideration. The term does not include:

12 (1) a husband who provides sperm, or a wife
13 who provides eggs, to be used for assisted reproduction by the
14 wife;

15 (2) a woman who gives birth to a child by
16 means of assisted reproduction, except as otherwise provided in
17 Article 8 of the Uniform Parentage Act; or

18 (3) a parent pursuant to Article 7 of the
19 Uniform Parentage Act or an intended parent pursuant to Article
20 8 of the Uniform Parentage Act;

21 J. "ethnic or racial group" means, for purposes of
22 genetic testing, a recognized group that a person identifies as
23 all or part of the person's ancestry or that is so identified
24 by other information;

25 K. "genetic testing" means an analysis of genetic

1 markers to exclude or identify a man as the father or a woman
2 as the mother of a child. The term includes an analysis of one
3 or a combination of the following:

4 (1) deoxyribonucleic acid; and

5 (2) blood-group antigens, red-cell antigens,
6 human-leukocyte antigens, serum enzymes, serum proteins or red-
7 cell enzymes;

8 L. "gestational agreement" means an agreement
9 described in Section 8-801 of the Uniform Parentage Act;

10 M "gestational mother" means an adult woman who
11 gives birth to a child pursuant to a gestational agreement;

12 N. "man" means a male person of any age;

13 O. "parent" means a person who has established a
14 parent-child relationship pursuant to Section 2-201 of the
15 Uniform Parentage Act;

16 P. "parent-child relationship" means the legal
17 relationship between a child and a parent of the child. The
18 term includes the mother-child relationship and the father-
19 child relationship;

20 Q. "paternity index" means the likelihood of
21 paternity calculated by computing the ratio between:

22 (1) the likelihood that the tested man is the
23 father, based on the genetic markers of the tested man, mother
24 and child, conditioned on the hypothesis that the tested man is
25 the father of the child; and

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1 (2) the likelihood that the tested man is not
2 the father, based on the genetic markers of the tested man,
3 mother and child, conditioned on the hypothesis that the tested
4 man is not the father of the child and that the father is of
5 the same ethnic or racial group as the tested man;

6 R. "presumed father" means a man who, by operation
7 of law pursuant to Section 2-204 of the Uniform Parentage Act,
8 is recognized as the father of a child until that status is
9 rebutted or confirmed in a judicial proceeding;

10 S. "probability of paternity" means the measure,
11 for the ethnic or racial group to which the alleged father
12 belongs, of the probability that the man in question is the
13 father of the child, compared with a random, unrelated man of
14 the same ethnic or racial group, expressed as a percentage
15 incorporating the paternity index and a prior probability;

16 T. "record" means information that is inscribed on
17 a tangible medium or that is stored in an electronic or other
18 medium and is retrievable in perceivable form;

19 U. "signatory" means a person who authenticates a
20 record and is bound by its terms;

21 V. "state" means a state of the United States, the
22 District of Columbia, Puerto Rico, the United States Virgin
23 Islands or any territory or insular possession subject to the
24 jurisdiction of the United States; and

25 W. "support-enforcement agency" means a public

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1 official or agency authorized to seek:

2 (1) enforcement of support orders or laws
3 relating to the duty of support;

4 (2) establishment or modification of child
5 support;

6 (3) determination of parentage; or

7 (4) location of child-support obligors and
8 their income and assets.

9 Section 1-103. [NEW MATERIAL] SCOPE OF ACT-- CHOICE OF
10 LAW. --

11 A. The Uniform Parentage Act applies to
12 determination of parentage in New Mexico.

13 B. The district court shall apply the law of New
14 Mexico to adjudicate the parent-child relationship. The
15 applicable law does not depend on:

16 (1) the place of birth of the child; or

17 (2) the past or present residence of the
18 child.

19 C. The Uniform Parentage Act does not create,
20 enlarge or diminish parental rights or duties pursuant to other
21 law of New Mexico.

22 Section 1-104. [NEW MATERIAL] COURT OF THIS STATE. -- The
23 district court is authorized to adjudicate parentage pursuant
24 to the Uniform Parentage Act.

25 Section 1-105. [NEW MATERIAL] PROTECTION OF

1 PARTICIPANTS. -- Proceedings pursuant to the Uniform Parentage
2 Act are subject to other laws of New Mexico governing the
3 health, safety, privacy and liberty of a child or other person
4 who could be jeopardized by disclosure of identifying
5 information, including address, telephone number, place of
6 employment, social security number and the child's daycare
7 facility and school.

8 Section 1-106. [NEW MATERIAL] DETERMINATION OF
9 MATERNITY. -- Provisions of the Uniform Parentage Act relating to
10 determination of paternity apply to determinations of
11 maternity.

12 ARTICLE 2

13 PARENT-CHILD RELATIONSHIP

14 Section 2-201. [NEW MATERIAL] ESTABLISHMENT OF PARENT-
15 CHILD RELATIONSHIP. --

16 A. The mother-child relationship is established
17 between a woman and a child by:

18 (1) the woman's having given birth to the
19 child, except as otherwise provided in Article 8 of the Uniform
20 Parentage Act;

21 (2) an adjudication of the woman's maternity;

22 (3) adoption of the child by the woman; or

23 (4) an adjudication confirming the woman as a
24 parent of a child born to a gestational mother if the
25 gestational agreement was validated pursuant to Article 8 of

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1 the Uniform Parentage Act or is enforceable pursuant to other
2 law.

3 B. The father-child relationship is established
4 between a man and a child by:

5 (1) an un rebutted presumption of the man's
6 paternity of the child pursuant to Section 2-204 of the Uniform
7 Parentage Act;

8 (2) an effective acknowledgment of paternity
9 by the man pursuant to Article 3 of the Uniform Parentage Act,
10 unless the acknowledgment has been rescinded or successfully
11 challenged;

12 (3) an adjudication of the man's paternity;

13 (4) adoption of the child by the man;

14 (5) the man's having consented to assisted
15 reproduction by a woman pursuant to Article 7 of the Uniform
16 Parentage Act that resulted in the birth of the child; or

17 (6) an adjudication confirming the man as a
18 parent of a child born to a gestational mother if the
19 gestational agreement was validated pursuant to Article 8 of
20 the Uniform Parentage Act or is enforceable pursuant to other
21 law.

22 Section 2-202. [NEW MATERIAL] NO DISCRIMINATION BASED ON
23 MARITAL STATUS.--A child born to parents who are not married to
24 each other has the same rights pursuant to the law as a child
25 born to parents who are married to each other.

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1 Section 2-203. [NEW MATERIAL] CONSEQUENCES OF
2 ESTABLISHMENT OF PARENTAGE. --Unless parental rights are
3 terminated or relinquished, a parent-child relationship
4 established pursuant to the Uniform Parentage Act applies for
5 all purposes, except as otherwise specifically provided by
6 other law of New Mexico.

7 Section 2-204. [NEW MATERIAL] PRESUMPTION OF PATERNITY. --

8 A. A man is presumed to be the father of a child
9 if:

10 (1) he and the mother of the child are married
11 to each other and the child is born during the marriage;

12 (2) he and the mother of the child were
13 married to each other and the child is born within three
14 hundred days after the marriage is terminated by death,
15 annulment, declaration of invalidity, divorce or after a decree
16 of separation;

17 (3) before the birth of the child, he and the
18 mother of the child married each other in apparent compliance
19 with law, even if the attempted marriage is or could be
20 declared invalid, and the child is born during the invalid
21 marriage or within three hundred days after its termination by
22 death, annulment, declaration of invalidity, divorce or after a
23 decree of separation;

24 (4) after the birth of the child, he and the
25 mother of the child married each other in apparent compliance

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1 with law, whether or not the marriage is or could be declared
2 invalid, and he voluntarily asserted his paternity of the
3 child, and:

4 (a) the assertion is in a record filed
5 with the bureau;

6 (b) he agreed to be and is named as the
7 child's father on the child's birth certificate; or

8 (c) he promised in a record to support
9 the child as his own; or

10 (5) for the first two years of the child's
11 life, he resided in the same household with the child and
12 openly held out the child as his own.

13 B. A presumption of paternity established pursuant
14 to this section may be rebutted only by an adjudication
15 pursuant to Article 6 of the Uniform Parentage Act.

16 ARTICLE 3

17 VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

18 Section 3-301. [NEW MATERIAL] ACKNOWLEDGMENT OF
19 PATERNITY. --The mother of a child and a man claiming to be the
20 genetic father of the child may sign an acknowledgment of
21 paternity with intent to establish the man's paternity.

22 Section 3-302. [NEW MATERIAL] EXECUTION OF ACKNOWLEDGMENT
23 OF PATERNITY. --

24 A. An acknowledgment of paternity shall:

25 (1) be in a record;

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1 (2) be signed or otherwise authenticated under
2 penalty of perjury by the mother and by the man seeking to
3 establish his paternity;

4 (3) state that the child whose paternity is
5 being acknowledged:

6 (a) does not have a presumed father or
7 has a presumed father whose full name is stated; and

8 (b) does not have another acknowledged
9 or adjudicated father;

10 (4) state whether there has been genetic
11 testing and, if so, that the acknowledging man's claim of
12 paternity is consistent with the results of the testing; and

13 (5) state that the signatories understand that
14 the acknowledgment is the equivalent of a judicial adjudication
15 of paternity of the child and that a challenge to the
16 acknowledgment is permitted only under limited circumstances
17 and is barred after two years.

18 B. An acknowledgment of paternity is void if it:

19 (1) states that another man is a presumed
20 father, unless a denial of paternity signed or otherwise
21 authenticated by the presumed father is filed with the bureau;

22 (2) states that another man is an acknowledged
23 or adjudicated father; or

24 (3) falsely denies the existence of a
25 presumed, acknowledged or adjudicated father of the child.

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1 C. A presumed father may sign or otherwise
2 authenticate an acknowledgment of paternity.

3 Section 3-303. [NEW MATERIAL] DENIAL OF PATERNITY. -- A
4 presumed father may sign a denial of his paternity. The denial
5 is valid only if:

6 A. an acknowledgment of paternity signed or
7 otherwise authenticated by another man is filed pursuant to
8 Section 3-305 of the Uniform Parentage Act;

9 B. the denial is in a record and is signed or
10 otherwise authenticated under penalty of perjury; and

11 C. the presumed father has not previously:

12 (1) acknowledged his paternity, unless the
13 previous acknowledgment has been rescinded pursuant to Section
14 3-307 of the Uniform Parentage Act or successfully challenged
15 pursuant to Section 3-308 of the Uniform Parentage Act; or

16 (2) been adjudicated to be the father of the
17 child.

18 Section 3-304. [NEW MATERIAL] RULES FOR ACKNOWLEDGMENT
19 AND DENIAL OF PATERNITY. --

20 A. An acknowledgment of paternity and a denial of
21 paternity may be contained in a single document or may be
22 signed in counterparts, and may be filed separately or
23 simultaneously. If the acknowledgment and denial are both
24 necessary, neither is valid until both are filed.

25 B. An acknowledgment of paternity or a denial of

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1 paternity may be signed before the birth of the child.

2 C. Subject to Subsection A of this section, an
3 acknowledgment of paternity or denial of paternity takes effect
4 on the birth of the child or the filing of the document with
5 the bureau, whichever occurs later.

6 D. An acknowledgment of paternity or denial of
7 paternity signed by a minor is valid if it is otherwise in
8 compliance with the Uniform Parentage Act.

9 Section 3-305. [NEW MATERIAL] EFFECT OF ACKNOWLEDGMENT OR
10 DENIAL OF PATERNITY. --

11 A. Except as otherwise provided in Sections 3-307
12 and 3-308 of the Uniform Parentage Act, a valid acknowledgment
13 of paternity filed with the bureau is equivalent to an
14 adjudication of paternity of a child and confers upon the
15 acknowledged father all of the rights and duties of a parent.

16 B. Except as otherwise provided in Sections 3-307
17 and 3-308 of the Uniform Parentage Act, a valid denial of
18 paternity by a presumed father filed with the bureau in
19 conjunction with a valid acknowledgment of paternity is
20 equivalent to an adjudication of the nonpaternity of the
21 presumed father and discharges the presumed father from all
22 rights and duties of a parent.

23 Section 3-306. [NEW MATERIAL] NO FILING FEE. --The bureau
24 shall not charge for filing an acknowledgment of paternity or
25 denial of paternity.

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1 Section 3-307. [NEW MATERIAL] PROCEEDING FOR
2 RESCISSION. -- A signatory may rescind an acknowledgment of
3 paternity or denial of paternity by commencing a proceeding to
4 rescind before the earlier of:

5 A. sixty days after the effective date of the
6 acknowledgment or denial, as provided in Section 3-304 of the
7 Uniform Parentage Act; or

8 B. the date of the first hearing, in a proceeding
9 to which the signatory is a party, before a court to adjudicate
10 an issue relating to the child, including a proceeding that
11 establishes support.

12 Section 3-308. [NEW MATERIAL] CHALLENGE AFTER EXPIRATION
13 OF PERIOD FOR RESCISSION. --

14 A. After the period for rescission pursuant to
15 Section 3-307 of the Uniform Parentage Act has expired, a
16 signatory of an acknowledgment of paternity or denial of
17 paternity may commence a proceeding to challenge the
18 acknowledgment or denial only:

19 (1) on the basis of fraud, duress or material
20 mistake of fact; and

21 (2) within two years after the acknowledgment
22 or denial is filed with the bureau.

23 B. A party challenging an acknowledgment of
24 paternity or denial of paternity has the burden of proof.

25 Section 3-309. [NEW MATERIAL] PROCEDURE FOR RESCISSION OR

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1 CHALLENGE. --

2 A. Every signatory to an acknowledgment of
3 paternity and any related denial of paternity shall be made a
4 party to a proceeding to rescind or challenge the
5 acknowledgment or denial.

6 B. For the purpose of rescission of, or challenge
7 to, an acknowledgment of paternity or denial of paternity, a
8 signatory submits to personal jurisdiction of this state by
9 signing the acknowledgment or denial, effective upon the filing
10 of the document with the bureau.

11 C. Except for good cause shown, during the pendency
12 of a proceeding to rescind or challenge an acknowledgment of
13 paternity or denial of paternity, the district court may not
14 suspend the legal responsibilities of a signatory arising from
15 the acknowledgment, including the duty to pay child support.

16 D. A proceeding to rescind or to challenge an
17 acknowledgment of paternity or denial of paternity shall be
18 conducted in the same manner as a proceeding to adjudicate
19 parentage pursuant to Article 6 of the Uniform Parentage Act.

20 E. At the conclusion of a proceeding to rescind or
21 challenge an acknowledgment of paternity or denial of
22 paternity, the court shall order the bureau to amend the birth
23 record of the child, if appropriate.

24 Section 3-310. [NEW MATERIAL] RATIFICATION BARRED. -- A
25 court or administrative agency conducting a judicial or

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1 administrative proceeding is not required or permitted to
2 ratify an unchallenged acknowledgment of paternity.

3 Section 3-311. [NEW MATERIAL] FULL FAITH AND CREDIT--
4 ACKNOWLEDGEMENT OR DENIAL OF PATERNITY.--A court of this state
5 shall give full faith and credit to an acknowledgment of
6 paternity or denial of paternity effective in another state if
7 the acknowledgment or denial has been signed and is otherwise
8 in compliance with the law of the other state.

9 Section 3-312. [NEW MATERIAL] FORMS FOR ACKNOWLEDGMENT
10 AND DENIAL OF PATERNITY.--

11 A. The bureau shall prescribe forms for the
12 acknowledgment of paternity and the denial of paternity.

13 B. A valid acknowledgment of paternity or denial of
14 paternity is not affected by a later modification of the
15 prescribed form.

16 Section 3-313. [NEW MATERIAL] RELEASE OF INFORMATION.--
17 The bureau may release information relating to the
18 acknowledgment of paternity or denial of paternity to a
19 signatory of the acknowledgment or denial and to courts and to
20 other agencies as permitted pursuant to the provisions of
21 Chapter 24, Article 14 NMSA 1978.

22 Section 3-314. [NEW MATERIAL] ADOPTION OF RULES.--The
23 bureau may adopt rules to implement the provisions of this
24 article.

25 ARTICLE 4

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1 bureau shall incorporate all new information received into its
2 records but need not affirmatively seek to obtain current
3 information for incorporation in the registry.

4 Section 4-403. [NEW MATERIAL] NOTICE OF PROCEEDING. --
5 Notice of a proceeding for the adoption of or termination of
6 parental rights regarding a child shall be given to a
7 registrant who has timely registered. Notice shall be given in
8 a manner prescribed for service of process in a civil action.

9 Section 4-404. [NEW MATERIAL] TERMINATION OF PARENTAL
10 RIGHTS--CHILD UNDER ONE YEAR OF AGE. --The parental rights of a
11 man who may be the father of a child may be terminated without
12 notice if:

- 13 A. the child has not attained one year of age at
14 the time of the termination of parental rights;
- 15 B. the man did not register timely with the bureau;
- 16 and
- 17 C. the man is not exempt from registration pursuant
18 to Section 4-402 of the Uniform Parentage Act.

19 Section 4-405. [NEW MATERIAL] TERMINATION OF PARENTAL
20 RIGHTS--CHILD AT LEAST ONE YEAR OF AGE. --

21 A. If a child has attained one year of age, notice
22 of a proceeding for adoption of or termination of parental
23 rights regarding the child shall be given to every alleged
24 father of the child, whether or not he has registered with the
25 bureau.

1 B. Notice shall be given in a manner prescribed for
2 service of process in a civil action.

3 PART 2 - OPERATION OF REGISTRY

4 Section 4-411. [NEW MATERIAL] REQUIRED FORM -- The bureau
5 shall prepare a form for registering with the bureau. The form
6 shall require the signature of the registrant. The form shall
7 state that:

8 A. the form is signed under penalty of perjury;

9 B. a timely registration entitles the registrant to
10 notice of a proceeding for adoption of the child or termination
11 of the registrant's parental rights;

12 C. a timely registration does not commence a
13 proceeding to establish paternity;

14 D. the information disclosed on the form may be
15 used against the registrant to establish paternity;

16 E. services to assist in establishing paternity are
17 available to the registrant through the support-enforcement
18 agency;

19 F. the registrant should also register in another
20 state if conception or birth of the child occurred in the other
21 state;

22 G. information on registries of other states is
23 available from those states; and

24 H. procedures exist to rescind the registration of
25 a claim of paternity.

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1 Section 4-412. [NEW MATERIAL] FURNISHING OF INFORMATION--
2 CONFIDENTIALITY. --

3 A. The bureau need not seek to locate the mother of
4 a child who is the subject of a registration, but the bureau
5 shall send a copy of the notice of registration to a mother if
6 she has provided an address.

7 B. Information contained in the registry is
8 confidential and may be released on request only to:

- 9 (1) a court or a person designated by the
10 court;
- 11 (2) the mother of the child who is the subject
12 of the registration;
- 13 (3) an agency authorized by other law to
14 receive the information;
- 15 (4) a licensed child-placing agency;
- 16 (5) a support-enforcement agency;
- 17 (6) a party or the party's attorney of record
18 in a proceeding pursuant to the Uniform Parentage Act or in a
19 proceeding for adoption of or for termination of parental
20 rights regarding a child who is the subject of the
21 registration; and
- 22 (7) the registry of paternity in another
23 state.

24 Section 4-413. [NEW MATERIAL] PENALTY FOR RELEASING
25 INFORMATION. --A person commits a fourth degree felony and shall

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1 be sentenced pursuant to the provisions of Section 31-18-15
2 NMSA 1978 if the person intentionally releases information from
3 the registry to another person not authorized to receive the
4 information pursuant to Section 4-412 of the Uniform Parentage
5 Act.

6 Section 4-414. [NEW MATERIAL] RESCISSION OF
7 REGISTRATION. -- A registrant may rescind his registration at any
8 time by sending to the registry a rescission in a record signed
9 or otherwise authenticated by him and witnessed or notarized.

10 Section 4-415. [NEW MATERIAL] UNTIMELY REGISTRATION. -- If
11 a man registers more than thirty days after the birth of the
12 child, the bureau shall notify the registrant that on its face
13 his registration was not timely filed.

14 Section 4-416. [NEW MATERIAL] FEES FOR REGISTRY. --

15 A. A fee may not be charged for filing a
16 registration or a rescission of registration.

17 B. Except as otherwise provided in Subsection C of
18 this section, the bureau may charge a reasonable fee for making
19 a search of the registry and for furnishing a certificate.

20 C. A support-enforcement agency is not required to
21 pay a fee authorized by Subsection B of this section.

22 PART 3 - SEARCH OF REGISTRIES

23 Section 4-421. [NEW MATERIAL] SEARCH OF APPROPRIATE
24 REGISTRY. --

25 A. If a father-child relationship has not been

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1 established pursuant to the Uniform Parentage Act for a child
2 under one year of age, a petitioner for adoption of or
3 termination of parental rights regarding the child shall obtain
4 a certificate of search of the registry of paternity.

5 B. If a petitioner for adoption of or termination
6 of parental rights regarding a child has reason to believe that
7 the conception or birth of the child may have occurred in
8 another state, the petitioner shall also obtain a certificate
9 of search from the registry of paternity, if any, in that
10 state.

11 Section 4-422. [NEW MATERIAL] CERTIFICATE OF SEARCH OF
12 REGISTRY. --

13 A. The bureau shall furnish to the requester a
14 certificate of search of the registry on request of a person,
15 court or agency identified in Section 4-412 of the Uniform
16 Parentage Act.

17 B. A certificate provided by the bureau shall be
18 signed on behalf of the bureau and state that:

19 (1) a search has been made of the registry;
20 and

21 (2) a registration containing the information
22 required to identify the registrant:

23 (a) has been found and is attached to
24 the certificate of search; or

25 (b) has not been found.

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1 C. A petitioner shall file the certificate of
2 search with the district court before a proceeding for adoption
3 of or termination of parental rights regarding a child may be
4 concluded.

5 Section 4-423. [NEW MATERIAL] ADMISSIBILITY OF REGISTERED
6 INFORMATION. -- A certificate of search of the registry of
7 paternity in this or another state is admissible in a
8 proceeding for adoption of or termination of parental rights
9 regarding a child and, if relevant, in other legal proceedings.

10 ARTICLE 5

11 GENETIC TESTING

12 Section 5-501. [NEW MATERIAL] SCOPE OF ARTICLE. -- This
13 article governs genetic testing of a person to determine
14 parentage, whether the person:

- 15 A. voluntarily submits to testing; or
- 16 B. is tested pursuant to an order of the district
17 court or a support-enforcement agency.

18 Section 5-502. [NEW MATERIAL] ORDER FOR TESTING. --

19 A. Except as otherwise provided in this article and
20 Article 6 of the Uniform Parentage Act, the district court
21 shall order the child and other designated persons to submit to
22 genetic testing if the request for testing is supported by the
23 sworn statement of a party to the proceeding:

- 24 (1) alleging paternity and stating facts
25 establishing a reasonable probability of the requisite sexual

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1 contact between the persons; or

2 (2) denying paternity and stating facts
3 establishing a possibility that sexual contact between the
4 persons, if any, did not result in the conception of the child.

5 B. A support-enforcement agency may order genetic
6 testing only if there is no presumed, acknowledged or
7 adjudicated father.

8 C. If a request for genetic testing of a child is
9 made before birth, the district court or support-enforcement
10 agency may not order in-utero testing.

11 D. If two or more men are subject to court-ordered
12 genetic testing, the testing may be ordered concurrently or
13 sequentially.

14 Section 5- 503. [NEW MATERIAL] REQUIREMENTS FOR GENETIC
15 TESTING. --

16 A. Genetic testing shall be of a type reasonably
17 relied upon by experts in the field of genetic testing and
18 performed in a testing laboratory accredited by:

19 (1) the American association of blood banks or
20 a successor to its functions;

21 (2) the American society for
22 histocompatibility and immunogenetics or a successor to its
23 functions; or

24 (3) an accrediting body designated by the
25 federal secretary of health and human services.

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1 B. A specimen used in genetic testing may consist
2 of one or more samples, or a combination of samples, of blood,
3 buccal cells, bone, hair or other body tissue or fluid. The
4 specimen used in the testing need not be of the same kind for
5 each person undergoing genetic testing.

6 C. Based on the ethnic or racial group of a person,
7 the testing laboratory shall determine the databases from which
8 to select frequencies for use in calculation of the probability
9 of paternity. If there is disagreement as to the testing
10 laboratory's choice, the following rules apply:

11 (1) the person objecting may require the
12 testing laboratory, within thirty days after receipt of the
13 report of the test, to recalculate the probability of paternity
14 using an ethnic or racial group different from that used by the
15 laboratory;

16 (2) the person objecting to the testing
17 laboratory's initial choice shall:

18 (a) if the frequencies are not available
19 to the testing laboratory for the ethnic or racial group
20 requested, provide the requested frequencies compiled in a
21 manner recognized by accrediting bodies; or

22 (b) engage another testing laboratory to
23 perform the calculations; and

24 (3) the testing laboratory may use its own
25 statistical estimate if there is a question regarding which

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1 ethnic or racial group is appropriate. If available, the
2 testing laboratory shall calculate the frequencies using
3 statistics for any other ethnic or racial group requested.

4 D. If, after recalculation using a different ethnic
5 or racial group, genetic testing does not rebuttably identify a
6 man as the father of a child pursuant to Section 5-505 of the
7 Uniform Parentage Act, a person who has been tested may be
8 required to submit to additional genetic testing.

9 Section 5-504. [NEW MATERIAL] REPORT OF GENETIC
10 TESTING. --

11 A. A report of genetic testing shall be in a record
12 and signed under penalty of perjury by a designee of the
13 testing laboratory. A report made pursuant to the requirements
14 of this article is self-authenticating.

15 B. Documentation from the testing laboratory of the
16 following information is sufficient to establish a reliable
17 chain of custody that allows the results of genetic testing to
18 be admissible without testimony:

- 19 (1) the names and photographs of the persons
20 whose specimens have been taken;
- 21 (2) the names of the persons who collected the
22 specimens;
- 23 (3) the places and dates the specimens were
24 collected;
- 25 (4) the names of the persons who received the

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1 specimens in the testing laboratory;
2 (5) the dates the specimens were received; and
3 (6) the accreditation of the testing facility
4 showing that it meets the requirements of Section 5-503 of the
5 Uniform Parentage Act.

6 Section 5-505. [NEW MATERIAL] GENETIC TESTING RESULTS--
7 REBUTTAL. --

8 A. Pursuant to the Uniform Parentage Act, a man is
9 rebuttably identified as the father of a child if the genetic
10 testing complies with this article and the results disclose
11 that:

12 (1) the man has at least a ninety-nine percent
13 probability of paternity, using a prior probability of zero
14 point five zero, as calculated by using the combined paternity
15 index obtained in the testing; and

16 (2) a combined paternity index of at least one
17 hundred to one.

18 B. A man identified pursuant to Subsection A of
19 this section as the father of the child may rebut the genetic
20 testing results only by other genetic testing satisfying the
21 requirements of this article that:

22 (1) excludes the man as a genetic father of
23 the child; or

24 (2) identifies another man as the possible
25 father of the child.

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1 C. Except as otherwise provided in Section 5-510 of
2 the Uniform Parentage Act, if more than one man is identified
3 by genetic testing as the possible father of the child, the
4 court shall order them to submit to further genetic testing to
5 identify the genetic father.

6 Section 5-506. [NEW MATERIAL] COSTS OF GENETIC TESTING. --

7 A. Subject to assessment of costs pursuant to
8 Article 6 of the Uniform Parentage Act, the cost of initial
9 genetic testing shall be advanced:

10 (1) by a support-enforcement agency in a
11 proceeding in which the support-enforcement agency is providing
12 services;

13 (2) by the person who made the request;

14 (3) as agreed by the parties; or

15 (4) as ordered by the district court.

16 B. In cases in which the cost is advanced by the
17 support-enforcement agency, the agency may seek reimbursement
18 from a man who is rebuttably identified as the father.

19 Section 5-507. [NEW MATERIAL] ADDITIONAL GENETIC
20 TESTING. -- The district court or the support-enforcement agency
21 shall order additional genetic testing upon the request of a
22 party who contests the result of the original testing. If the
23 previous genetic testing identified a man as the father of the
24 child pursuant to Section 5-505 of the Uniform Parentage Act,
25 the court or agency may not order additional testing unless the

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1 party provides advance payment for the testing.

2 Section 5-508. [NEW MATERIAL] GENETIC TESTING WHEN
3 SPECIMENS NOT AVAILABLE. --

4 A. Subject to Subsection B of this section, if a
5 genetic-testing specimen is not available from a man who may be
6 the father of a child, for good cause and under circumstances
7 the court considers to be just, the court may order the
8 following persons to submit specimens for genetic testing:

- 9 (1) the parents of the man;
- 10 (2) brothers and sisters of the man;
- 11 (3) other children of the man and their
12 mothers; and
- 13 (4) other relatives of the man necessary to
14 complete genetic testing.

15 B. Issuance of an order pursuant to this section
16 requires a finding that a need for genetic testing outweighs
17 the legitimate interests of the person sought to be tested.

18 Section 5-509. [NEW MATERIAL] DECEASED PERSON. -- For good
19 cause shown, the district court may order genetic testing of a
20 deceased person.

21 Section 5-510. [NEW MATERIAL] IDENTICAL BROTHERS. --

22 A. The district court may order genetic testing of
23 a brother of a man identified as the father of a child if the
24 man is commonly believed to have an identical brother and
25 evidence suggests that the brother may be the genetic father of

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1 the child.

2 B. If each brother satisfies the requirements as
3 the identified father of the child pursuant to Section 5-505 of
4 the Uniform Parentage Act without consideration of another
5 identical brother being identified as the father of the child,
6 the district court may rely on nongenetic evidence to
7 adjudicate which brother is the father of the child.

8 Section 5-511. [NEW MATERIAL] CONFIDENTIALITY OF GENETIC
9 TESTING. --

10 A. Release of the report of genetic testing for
11 parentage is controlled by Section 24-14-27 NMSA 1978.

12 B. A person who intentionally releases an
13 identifiable specimen of another person for any purpose other
14 than that relevant to the proceeding regarding parentage
15 without a court order or the written permission of the person
16 who furnished the specimen commits a fourth degree felony and
17 shall be sentenced pursuant to the provisions of Section
18 31-18-15 NMSA 1978.

19 ARTICLE 6

20 PROCEEDING TO ADJUDICATE PARENTAGE

21 PART 1 - NATURE OF PROCEEDING

22 Section 6-601. [NEW MATERIAL] PROCEEDING AUTHORIZED. -- A
23 civil proceeding may be maintained to adjudicate the parentage
24 of a child. The proceeding is governed by the Rules of Civil
25 Procedure for the District Courts. The mother of the child and

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1 an alleged father or presumed father are competent to testify.
2 Any witness may be compelled to testify.

3 Section 6- 602. [NEW MATERIAL] STANDING TO MAINTAIN
4 PROCEEDING. -- Subject to Article 3 and Sections 6- 607 and 6- 609
5 of the Uniform Parentage Act, a proceeding to adjudicate
6 parentage may be maintained by:

7 A. the child;

8 B. the mother of the child;

9 C. a man whose paternity of the child is to be
10 adjudicated;

11 D. the support-enforcement agency;

12 E. an authorized adoption agency or licensed child-
13 placing agency;

14 F. a representative authorized by law to act for a
15 person who would otherwise be entitled to maintain a proceeding
16 but who is deceased, incapacitated or a minor; or

17 G. an intended parent pursuant to Article 8 of the
18 Uniform Parentage Act.

19 Section 6- 603. [NEW MATERIAL] PARTIES TO PROCEEDING. -- The
20 following persons shall be joined as parties in a proceeding to
21 adjudicate parentage:

22 A. the mother of the child; and

23 B. a man whose paternity of the child is to be
24 adjudicated.

25 Section 6- 604. [NEW MATERIAL] PERSONAL JURISDICTION. --

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1 A. A person may not be adjudicated to be a parent
2 unless the district court has personal jurisdiction over the
3 person.

4 B. A district court of this state having
5 jurisdiction to adjudicate parentage may exercise personal
6 jurisdiction over a nonresident person, or the guardian or
7 conservator of the person, if the conditions prescribed in
8 Section 40-6A-201 NMSA 1978 are fulfilled.

9 C. Lack of jurisdiction over one person does not
10 preclude the district court from making an adjudication of
11 parentage binding on another person over whom the district
12 court has personal jurisdiction.

13 Section 6-605. [NEW MATERIAL] VENUE. --Venue for a
14 proceeding to adjudicate parentage is in the county of this
15 state in which:

16 A. the child resides or is found;

17 B. the respondent resides or is found if the child
18 does not reside in this state; or

19 C. a proceeding for probate or administration of
20 the presumed or alleged father's estate has been commenced.

21 Section 6-606. [NEW MATERIAL] NO LIMITATION--CHILD HAVING
22 NO PRESUMED, ACKNOWLEDGED OR ADJUDICATED FATHER. --A proceeding
23 to adjudicate the parentage of a child having no presumed,
24 acknowledged or adjudicated father may be commenced at any
25 time, even after:

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1 A. the child becomes an adult, but only if the
2 child initiates the proceeding; or

3 B. an earlier proceeding to adjudicate paternity
4 has been dismissed based on the application of a statute of
5 limitation then in effect.

6 Section 6- 607. [NEW MATERIAL] LIMITATION-- CHILD HAVING
7 PRESUMED FATHER. --

8 A. Except as otherwise provided in Subsection B of
9 this section, a proceeding brought by a presumed father, the
10 mother or another person to adjudicate the parentage of a child
11 having a presumed father shall be commenced not later than two
12 years after the birth of the child.

13 B. A proceeding seeking to disprove the father-
14 child relationship between a child and the child's presumed
15 father may be maintained at any time if the district court
16 determines that:

17 (1) the presumed father and the mother of the
18 child neither cohabited nor engaged in sexual intercourse with
19 each other during the probable time of conception; and

20 (2) the presumed father never openly held out
21 the child as his own.

22 Section 6- 608. [NEW MATERIAL] AUTHORITY TO DENY MOTION
23 FOR GENETIC TESTING. --

24 A. In a proceeding to adjudicate the parentage of a
25 child having a presumed father or to challenge the paternity of

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1 a child having an acknowledged father, the district court may
2 deny a motion seeking an order for genetic testing of the
3 mother, the child and the presumed or acknowledged father if
4 the district court determines that:

5 (1) the conduct of the mother or the presumed
6 or acknowledged father estops that party from denying
7 parentage; and

8 (2) it would be inequitable to disprove the
9 father-child relationship between the child and the presumed or
10 acknowledged father.

11 B. In determining whether to deny a motion seeking
12 an order for genetic testing pursuant to this section, the
13 district court shall consider the best interest of the child,
14 including the following factors:

15 (1) the length of time between the proceeding
16 to adjudicate parentage and the time that the presumed or
17 acknowledged father was placed on notice that he might not be
18 the genetic father;

19 (2) the length of time during which the
20 presumed or acknowledged father has assumed the role of father
21 of the child;

22 (3) the facts surrounding the presumed or
23 acknowledged father's discovery of his possible nonpaternity;

24 (4) the nature of the relationship between the
25 child and the presumed or acknowledged father;

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- 1 (5) the age of the child;
- 2 (6) the harm that may result to the child if
- 3 presumed or acknowledged paternity is successfully disproved;
- 4 (7) the nature of the relationship between the
- 5 child and any alleged father;
- 6 (8) the extent to which the passage of time
- 7 reduces the chances of establishing the paternity of another
- 8 man and a child-support obligation in favor of the child; and
- 9 (9) other factors that may affect the equities
- 10 arising from the disruption of the father-child relationship
- 11 between the child and the presumed or acknowledged father or
- 12 the chance of other harm to the child.

13 C. In a proceeding involving the application of
14 this section, a minor or incapacitated child shall be
15 represented by a guardian ad litem.

16 D. Denial of a motion seeking an order for genetic
17 testing shall be based on clear and convincing evidence.

18 E. If the district court denies a motion seeking an
19 order for genetic testing, it shall issue an order adjudicating
20 the presumed or acknowledged father to be the father of the
21 child.

22 Section 6- 609. [NEW MATERIAL] LIMITATION-- CHILD HAVING
23 ACKNOWLEDGED OR ADJUDICATED FATHER. --

24 A. If a child has an acknowledged father, a
25 signatory to the acknowledgment of paternity or denial of

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1 paternity may commence a proceeding seeking to rescind the
2 acknowledgment or denial or challenge the paternity of the
3 child only within the time allowed pursuant to Section 3-307 or
4 3-308 of the Uniform Parentage Act.

5 B. If a child has an acknowledged father or an
6 adjudicated father, a person, other than the child, who is
7 neither a signatory to the acknowledgment of paternity nor a
8 party to the adjudication and who seeks an adjudication of
9 paternity of the child shall commence a proceeding not later
10 than two years after the effective date of the acknowledgment
11 or adjudication.

12 C. A proceeding pursuant to this section is subject
13 to the application of the principles of estoppel established in
14 Section 6-608 of the Uniform Parentage Act.

15 Section 6-610. [NEW MATERIAL] JOINDER OF PROCEEDINGS. --

16 A. Except as otherwise provided in Subsection B of
17 this section, a proceeding to adjudicate parentage may be
18 joined with a proceeding for adoption, termination of parental
19 rights, child custody or visitation, child support, divorce,
20 annulment, legal separation or separate maintenance, probate or
21 administration of an estate or other appropriate proceeding.

22 B. A respondent may not join a proceeding described
23 in Subsection A of this section with a proceeding to adjudicate
24 parentage brought pursuant to the Uniform Interstate Family
25 Support Act.

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1 Section 6-611. [NEW MATERIAL] PROCEEDING BEFORE BIRTH. -- A
2 proceeding to determine parentage may be commenced before the
3 birth of the child, but may not be concluded until after the
4 birth of the child. The following actions may be taken before
5 the birth of the child:

- 6 A. service of process;
 - 7 B. discovery; and
 - 8 C. except as prohibited by Section 5-502 of the
- 9 Uniform Parentage Act, collection of specimens for genetic
10 testing.

11 Section 6-612. [NEW MATERIAL] CHILD AS PARTY--
12 REPRESENTATION. --

13 A. A minor child is a permissible party, but is not
14 a necessary party to a proceeding pursuant to this article.

15 B. The district court shall appoint a guardian ad
16 litem as defined in Subsection J of Section 32A-1-4 NMSA 1978
17 to represent a minor or incapacitated child if the child is a
18 party or the district court finds that the interests of the
19 child are not adequately represented.

20 PART 2 - SPECIAL RULES FOR PROCEEDING TO ADJUDICATE PARENTAGE

21 Section 6-621. [NEW MATERIAL] ADMISSIBILITY OF RESULTS OF
22 GENETIC TESTING-- EXPENSES. --

23 A. Except as otherwise provided in Subsection C of
24 this section, a record of a genetic-testing expert is
25 admissible as evidence of the truth of the facts asserted in

1 the report unless a party objects, in a writing delivered to a
2 party, to its admission within fourteen days after its receipt
3 by the objecting party and cites specific grounds for
4 exclusion. The admissibility of the report is not affected by
5 whether the testing was performed:

6 (1) voluntarily or pursuant to an order of the
7 district court or a support-enforcement agency; or

8 (2) before or after the commencement of the
9 proceeding.

10 B. A party objecting to the results of genetic
11 testing may call one or more genetic-testing experts to testify
12 in person or by telephone, videoconference, deposition or
13 another method approved by the district court. Unless
14 otherwise ordered by the district court, the party offering the
15 testimony bears the expense for the expert testifying.

16 C. If a child has a presumed, acknowledged or
17 adjudicated father, the results of genetic testing are
18 inadmissible to adjudicate parentage unless performed:

19 (1) with the consent of both the mother and
20 the presumed, acknowledged or adjudicated father; or

21 (2) pursuant to an order of the district court
22 pursuant to Section 5-502 of the Uniform Parentage Act.

23 D. Copies of bills for genetic testing, for child
24 birth and for prenatal and postnatal health care for the mother
25 and child that are furnished to the adverse party not less than

1 ten days before the date of a hearing are admissible to
2 establish:

- 3 (1) the amount of the charges billed; and
4 (2) that the charges were reasonable,
5 necessary and customary.

6 Section 6- 622. [NEW MATERIAL] CONSEQUENCES OF DECLINING
7 GENETIC TESTING. --

8 A. An order for genetic testing is enforceable by
9 contempt.

10 B. If a person whose paternity is being determined
11 declines to submit to genetic testing ordered by the district
12 court, the district court for that reason may adjudicate
13 parentage contrary to the position of the person who declines.

14 C. Genetic testing of the mother of a child is not
15 a condition precedent to testing the child and a man whose
16 paternity is being determined. If the mother is unavailable or
17 declines to submit to genetic testing, the district court may
18 order the testing of the child and every man whose paternity is
19 being adjudicated.

20 Section 6- 623. [NEW MATERIAL] ADMISSION OF PATERNITY
21 AUTHORIZED. --

22 A. A respondent in a proceeding to adjudicate
23 parentage may admit to the paternity of a child by filing a
24 pleading to that effect or by admitting paternity under penalty
25 of perjury when making an appearance or during a hearing.

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1 B. If the district court finds that the admission
2 of paternity satisfies the requirements of this section and
3 finds that there is no reason to question the admission, the
4 district court shall issue an order adjudicating the child to
5 be the child of the man admitting paternity.

6 Section 6-624. [NEW MATERIAL] TEMPORARY ORDER. --

7 A. In a proceeding pursuant to this article, the
8 district court shall issue a temporary order for support of a
9 child if the order is appropriate and the person ordered to pay
10 support is:

- 11 (1) a presumed father of the child;
- 12 (2) petitioning to have his paternity
13 adjudicated;
- 14 (3) identified as the father through genetic
15 testing pursuant to Section 5-505 of the Uniform Parentage Act;
- 16 (4) an alleged father who has declined to
17 submit to genetic testing;
- 18 (5) shown by clear and convincing evidence to
19 be the father of the child; or
- 20 (6) the mother of the child.

21 B. A temporary order may include provisions for
22 custody and visitation as provided by other law of this state.
23 A temporary order of support is subject to the provisions of
24 Section 6-636 of the Uniform Parentage Act.

25 PART 3 - HEARINGS AND ADJUDICATION

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1 Section 6- 631. [NEW MATERIAL] RULES FOR ADJUDICATION OF
2 PATERNITY. --The district court shall apply the following rules
3 to adjudicate the paternity of a child:

4 A. the paternity of a child having a presumed,
5 acknowledged or adjudicated father may be disproved only by
6 admissible results of genetic testing excluding that man as the
7 father of the child or identifying another man as the father of
8 the child;

9 B. unless the results of genetic testing are
10 admitted to rebut other results of genetic testing, a man
11 identified as the father of a child pursuant to Section 5-505
12 of the Uniform Parentage Act shall be adjudicated the father of
13 the child;

14 C. if the district court finds that genetic testing
15 pursuant to section 5-505 of the Uniform Parentage Act neither
16 identifies nor excludes a man as the father of a child, the
17 district court may not dismiss the proceeding. In that event,
18 the results of genetic testing and other evidence are
19 admissible to adjudicate the issue of paternity; and

20 D. unless the results of genetic testing are
21 admitted to rebut other results of genetic testing, a man
22 excluded as the father of a child by genetic testing shall be
23 adjudicated not to be the father of the child.

24 Section 6- 632. [NEW MATERIAL] JURY PROHIBITED. --The
25 district court, without a jury, shall adjudicate paternity of a

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1 child.

2 Section 6- 633. [NEW MATERIAL] HEARINGS-- INSPECTION OF
3 RECORDS. --

4 A. On request of a party and for good cause shown,
5 the district court may close a proceeding to the public and
6 except for a final order, may declare the proceeding to be
7 confidential and seal the file.

8 B. A final order in a proceeding pursuant to this
9 article is available for public inspection. Other papers and
10 records are available only with the consent of the parties or
11 on order of the district court for good cause.

12 Section 6- 634. [NEW MATERIAL] ORDER ON DEFAULT. -- The
13 district court shall issue an order adjudicating the paternity
14 of a man who:

15 A. after service of process, is in default; and

16 B. is found by the district court to be the father
17 of a child.

18 Section 6- 635. [NEW MATERIAL] DISMISSAL FOR WANT OF
19 PROSECUTION. -- The district court may issue an order dismissing
20 a proceeding commenced pursuant to the Uniform Parentage Act
21 for want of prosecution only without prejudice. An order of
22 dismissal for want of prosecution purportedly with prejudice is
23 void and has only the effect of a dismissal without prejudice.

24 Section 6- 636. [NEW MATERIAL] ORDER ADJUDICATING
25 PARENTAGE. --

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1 A. The district court shall issue an order
2 adjudicating whether a man alleged or claiming to be the father
3 is the parent of the child.

4 B. An order adjudicating parentage shall identify
5 the child by name and date of birth.

6 C. Except as otherwise provided in Subsection D of
7 this section, the district court may assess filing fees,
8 reasonable fees of counsel, experts and the child's guardian ad
9 litem, fees for genetic testing, other costs, necessary travel
10 and other reasonable expenses incurred in a proceeding pursuant
11 to this article. The district court may award attorney fees,
12 which may be paid directly to the attorney, who may enforce the
13 order in the attorney's own name. The district court may order
14 these fees, costs and expenses to be paid by any party in
15 proportions and at times as determined by the court, but not
16 exceeding twelve years unless there is a substantial showing
17 that paternity could not have been established and an action
18 for child support could not have been brought within twelve
19 years of the child's birth. The court may order the proportion
20 of any indigent party to be paid from court funds.

21 D. The district court may not assess fees, costs or
22 expenses against the support-enforcement agency of this state
23 or another state, except as provided by other law.

24 E. On request of a party and for good cause shown,
25 the district court may order that the name of the child be

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1 changed.

2 F. If the order of the district court is at
3 variance with the child's birth certificate, the district court
4 shall order the bureau to issue an amended birth registration.

5 G. The judgment or order may contain any other
6 provision directed against or on behalf of the appropriate
7 party to the proceeding concerning the duty of past and future
8 support, the custody and guardianship of the child, visitation
9 with the child, the furnishing of bond or other security for
10 the payment of the judgment or any other matter within the
11 jurisdiction of the court. The judgment or order may direct
12 the father to pay the reasonable expenses of the mother's
13 pregnancy, birth and confinement. The court shall order child
14 support retroactive to the date of the child's birth, but not
15 to exceed twelve years unless there is a substantial showing
16 that paternity could not have been established and an action
17 for child support could not have been brought within twelve
18 years of the child's birth pursuant to the provisions of
19 Sections 40-4-11 through 40-4-11.3 NMSA 1978; provided that, in
20 deciding whether or how long to order retroactive support, the
21 court shall consider:

22 (1) whether the alleged or presumed father
23 has absconded or could not be located; and

24 (2) whether equitable defenses are
25 applicable.

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1 H. Support judgments or orders ordinarily shall be
2 for periodic payments which may vary in amount. In the best
3 interest of the child, a lump-sum payment or the purchase of an
4 annuity may be ordered in lieu of periodic payments of support;
5 provided, however, nothing in this section shall deprive a
6 state agency of its right to reimbursement from an appropriate
7 party should the child be a past or future recipient of public
8 assistance.

9 I. In determining the amount to be paid by a parent
10 for support of the child, a court, child support hearing
11 officer or master shall make such determination in accordance
12 with the provisions of the child support guidelines of Section
13 40-4-11.1 NMSA 1978.

14 J. Bills for pregnancy, childbirth and genetic
15 testing are admissible as evidence without requiring third-
16 party foundation testimony and constitute prima facie evidence
17 of amounts incurred.

18 Section 6-637. [NEW MATERIAL] BINDING EFFECT OF
19 DETERMINATION OF PARENTAGE. --

20 A. Except as otherwise provided in Subsection B of
21 this section, a determination of parentage is binding on:

22 (1) all signatories to an acknowledgment or
23 denial of paternity as provided in Article 3 of the Uniform
24 Parentage Act; and

25 (2) all parties to an adjudication by a

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1 district court acting under circumstances that satisfy the
2 jurisdictional requirements of Section 40-6A-201 NMSA 1978.

3 B. A child is not bound by a determination of
4 parentage pursuant to the Uniform Parentage Act unless:

5 (1) the determination was based on an
6 unrescinded acknowledgment of paternity and the acknowledgment
7 is consistent with the results of genetic testing;

8 (2) the adjudication of parentage was based on
9 a finding consistent with the results of genetic testing and
10 the consistency is declared in the determination or is
11 otherwise shown; or

12 (3) the child was a party or was represented
13 in the proceeding determining parentage by a guardian ad litem
14 as defined in Subsection J of Section 32A-1-4 NMSA 1975.

15 C. In a proceeding to dissolve a marriage, the
16 district court is deemed to have made an adjudication of the
17 parentage of a child if the district court acts under
18 circumstances that satisfy the jurisdictional requirements of
19 Section 40-6A-201 NMSA 1978, and the final order:

20 (1) expressly identifies a child as a "child
21 of the marriage", "issue of the marriage" or similar words
22 indicating that the husband is the father of the child; or

23 (2) provides for support of the child by the
24 husband unless paternity is specifically disclaimed in the
25 order.

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1 D. Except as otherwise provided in Subsection B of
2 this section, a determination of parentage may be a defense in
3 a subsequent proceeding seeking to adjudicate parentage by a
4 person who was not a party to the earlier proceeding.

5 E. A party to an adjudication of paternity may
6 challenge the adjudication only pursuant to the law of this
7 state relating to appeal, vacation of judgments or other
8 judicial review.

9 Section 6-638. [NEW MATERIAL] FULL FAITH AND CREDIT--
10 DETERMINATION OF PARENTAGE. --A court of this state shall give
11 full faith and credit to a determination of parentage made by a
12 court of another state.

13 Section 6-639. [NEW MATERIAL] ENFORCEMENT OF JUDGMENT OR
14 ORDER. --

15 A. If existence of the father and child
16 relationship is declared, or paternity or a duty of support has
17 been acknowledged or adjudicated under the Uniform Parentage
18 Act or under prior law, the obligation of the father may be
19 enforced in the same or other proceedings by any interested
20 party.

21 B. The court may order support payments to be made
22 to the mother, the clerk of the court or a person, corporation
23 or agency designated to collect or administer such funds for
24 the benefit of the child, upon such terms as the court deems
25 appropriate.

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1 C. Willful failure to obey the judgment or order of
2 the court is a civil contempt of the court. All remedies for
3 the enforcement of judgments apply.

4 Section 6-640. [NEW MATERIAL] MODIFICATION OF JUDGMENT OR
5 ORDER. --The court has continuing jurisdiction to modify or
6 revoke a judgment or order for future support.

7 Section 6-641. [NEW MATERIAL] RIGHT TO COUNSEL--FREE
8 TRANSCRIPT ON APPEAL. --

9 A. At the pretrial hearing and in further
10 proceedings, any party may be represented by counsel. The
11 court shall appoint counsel for any party who is unable to
12 obtain counsel for financial reasons if, in the court's
13 discretion, appointment of counsel is required in the interest
14 of justice.

15 B. If a party is financially unable to pay the cost
16 of a transcript, the court shall furnish on request a
17 transcript for purposes of appeal.

18 Section 6-642. [NEW MATERIAL] HEARINGS AND RECORDS--
19 CONFIDENTIALITY. --Notwithstanding any other law concerning
20 public hearings and records, any hearing or trial held under
21 the provisions of the Uniform Parentage Act may be held in
22 closed court without admittance of any person other than those
23 necessary to the action or proceeding. The court may order
24 that certain papers and records pertaining to the action or
25 proceeding, whether part of the permanent record of the court

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1 or any other file maintained by the state or elsewhere, are
2 subject to inspection only upon consent of the court; provided,
3 however, nothing in this section shall infringe upon the right
4 of the parties to an action or proceeding to inspect the court
5 record.

6 Section 6-643. [NEW MATERIAL] BIRTH RECORDS. --

7 A. Upon order of a court of this state or upon
8 request of a court of another state, the bureau shall prepare a
9 new certificate of birth consistent with the findings of the
10 court and shall substitute the new certificate for the original
11 certificate of birth.

12 B. The fact that the father and child relationship
13 was declared after the child's birth shall not be ascertainable
14 from the new certificate, but the actual place and date of
15 birth shall be shown.

16 C. The evidence upon which the new certificate was
17 made and the original birth certificate shall be kept in a
18 sealed and confidential file and be subject to inspection only
19 upon order of the court and consent of all interested parties,
20 or in exceptional cases only upon an order of the court for
21 good cause shown.

22 ARTICLE 7

23 CHILD OF ASSISTED REPRODUCTION

24 Section 7-701. [NEW MATERIAL] SCOPE OF ARTICLE. -- This
25 article does not apply to the birth of a child conceived by

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1 means of sexual intercourse or as the result of a gestational
2 agreement as provided in Article 8 of the Uniform Parentage
3 Act.

4 Section 7-702. [NEW MATERIAL] PARENTAL STATUS OF DONOR. --
5 A donor is not a parent of a child conceived by means of
6 assisted reproduction.

7 Section 7-703. [NEW MATERIAL] PATERNITY OF CHILD OF
8 ASSISTED REPRODUCTION. -- A man who provides sperm for or
9 consents to assisted reproduction by a woman as provided in
10 Section 7-704 of the Uniform Parentage Act with the intent to
11 be the parent of her child is a parent of the resulting child.

12 Section 7-704. [NEW MATERIAL] CONSENT TO ASSISTED
13 REPRODUCTION. --

14 A. Consent by a woman and a man who intends to be a
15 parent of a child born to the woman by assisted reproduction
16 shall be in a record signed by the woman and the man. This
17 requirement does not apply to a donor.

18 B. Failure of a man to sign a consent required by
19 Subsection A of this section, before or after birth of the
20 child, does not preclude a finding of paternity if the woman
21 and the man, during the first two years of the child's life,
22 resided together in the same household with the child and
23 openly held out the child as their own.

24 C. All papers relating to the assisted
25 reproduction, whether part of a court, medical or any other

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1 file, are subject to inspection only upon an order of a court
2 for good cause shown.

3 Section 7-705. [NEW MATERIAL] LIMITATION ON HUSBAND'S
4 DISPUTE OF PATERNITY. --

5 A. Except as otherwise provided in Subsection B of
6 this section, the husband of a wife who gives birth to a child
7 by means of assisted reproduction may not challenge his
8 paternity of the child unless:

9 (1) within two years after learning of the
10 birth of the child he commences a proceeding to adjudicate his
11 paternity; and

12 (2) the district court finds that he did not
13 consent to the assisted reproduction, before or after birth of
14 the child.

15 B. A proceeding to adjudicate paternity may be
16 maintained at any time if the district court determines that:

17 (1) the husband did not provide sperm for, or
18 before or after the birth of the child consent to, assisted
19 reproduction by his wife;

20 (2) the husband and the mother of the child
21 have not cohabited since the probable time of assisted
22 reproduction; and

23 (3) the husband never openly held out the
24 child as his own.

25 C. The limitation provided in this section applies

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1 to a marriage declared invalid after assisted reproduction.

2 Section 7-706. [NEW MATERIAL] EFFECT OF DISSOLUTION OF
3 MARRIAGE OR WITHDRAWAL OF CONSENT. --

4 A. If a marriage is dissolved before placement of
5 eggs, sperm or embryos, the former spouse is not a parent of
6 the resulting child unless the former spouse consented in a
7 record that if assisted reproduction were to occur after a
8 divorce the former spouse would be a parent of the child.

9 B. The consent of a woman or a man to assisted
10 reproduction may be withdrawn by that person in a record at any
11 time before placement of eggs, sperm or embryos. A person who
12 withdraws consent pursuant to this section is not a parent of
13 the resulting child.

14 Section 7-707. [NEW MATERIAL] PARENTAL STATUS OF DECEASED
15 PERSON. --If a person who consented in a record to be a parent
16 by assisted reproduction dies before placement of eggs, sperm
17 or embryos, the deceased person is not a parent of the
18 resulting child unless the deceased spouse consented in a
19 record that if assisted reproduction were to occur after death,
20 the deceased person would be a parent of the child.

21 ARTICLE 8

22 GESTATIONAL AGREEMENT

23 Section 8-801. [NEW MATERIAL] GESTATIONAL AGREEMENT
24 AUTHORIZED. --

25 A. A prospective gestational mother, her husband if

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1 she is married, a donor or the donors and the intended parents
2 may enter into a written gestational agreement providing that:

3 (1) the prospective gestational mother agrees
4 to pregnancy by means of assisted reproduction;

5 (2) the prospective gestational mother, her
6 husband if she is married and the donors relinquish all rights
7 and duties as the parents of a child conceived through assisted
8 reproduction; and

9 (3) the intended parents become the parents of
10 the child.

11 B. The man and the woman who are the intended
12 parents shall both be parties to the gestational agreement.

13 C. A gestational agreement is enforceable only if
14 validated as provided in Section 8-803 of the Uniform Parentage
15 Act.

16 D. A gestational agreement does not apply to the
17 birth of a child conceived by means of sexual intercourse.

18 E. A gestational agreement may provide for payment
19 of consideration.

20 F. A gestational agreement may not limit the right
21 of the gestational mother to make decisions to safeguard her
22 health or that of the embryos or fetus.

23 Section 8-802. [NEW MATERIAL] REQUIREMENTS OF PETITION. --

24 A. The intended parents and the prospective
25 gestational mother may commence a proceeding in the district

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1 court to validate a gestational agreement.

2 B. A proceeding to validate a gestational agreement
3 may not be maintained unless:

4 (1) the mother or the intended parents have
5 been residents of this state for at least ninety days;

6 (2) the prospective gestational mother's
7 husband, if she is married, is joined in the proceeding; and

8 (3) a copy of the gestational agreement is
9 attached to the petition.

10 Section 8-803. [NEW MATERIAL] HEARING TO VALIDATE
11 GESTATIONAL AGREEMENT. --

12 A. If the requirements of Subsection B of this
13 section are satisfied, the district court may issue an order
14 validating the gestational agreement and declaring that the
15 intended parents will be the parents of a child born during the
16 term of the agreement.

17 B. The district court may issue an order pursuant
18 to Subsection A of this section only on finding that:

19 (1) the residence requirements of Section
20 8-802 of the Uniform Parentage Act have been satisfied and the
21 parties have submitted to the jurisdiction of the district
22 court pursuant to the jurisdictional standards of that act;

23 (2) unless waived by the district court, the
24 children, youth and families department or an agency as defined
25 in Subsection D of Section 32A-5-3 NMSA 1978 has made a home

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1 study of the intended parents and the intended parents meet the
2 standards of suitability applicable to adoptive parents;

3 (3) all parties have voluntarily entered into
4 the agreement and understand its terms;

5 (4) adequate provision has been made for all
6 reasonable health-care expense associated with the gestational
7 agreement until the birth of the child, including
8 responsibility for those expenses if the agreement is
9 terminated; and

10 (5) the consideration, if any, paid to the
11 prospective gestational mother is reasonable.

12 Section 8-804. [NEW MATERIAL] INSPECTION OF RECORDS. -- The
13 proceedings, records and identities of the individual parties
14 to a gestational agreement are subject to inspection pursuant
15 to the standards of confidentiality applicable to adoptions as
16 provided pursuant to other law of this state.

17 Section 8-805. [NEW MATERIAL] EXCLUSIVE, CONTINUING
18 JURISDICTION. -- Subject to the jurisdictional standards of
19 Section 40-10A-201 NMSA 1978, the district court conducting a
20 proceeding pursuant to this article has exclusive, continuing
21 jurisdiction of all matters arising out of the gestational
22 agreement until a child born to the gestational mother during
23 the period governed by the agreement attains the age of one
24 hundred eighty days.

25 Section 8-806. [NEW MATERIAL] TERMINATION OF GESTATIONAL

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1 AGREEMENT. --

2 A. After issuance of an order pursuant to this
3 article, but before the prospective gestational mother becomes
4 pregnant by means of assisted reproduction, the prospective
5 gestational mother, her husband or either of the intended
6 parents may terminate the gestational agreement by giving
7 written notice of termination to all other parties.

8 B. The district court for good cause shown may
9 terminate the gestational agreement.

10 C. A person who terminates a gestational agreement
11 shall file notice of the termination with the district court.
12 On receipt of the notice, the district court shall vacate the
13 order issued pursuant to this article. A person who does not
14 notify the district court of the termination of the agreement
15 is subject to appropriate sanctions.

16 D. Neither a prospective gestational mother nor her
17 husband if she is married, is liable to the intended parents
18 for terminating a gestational agreement pursuant to this
19 section.

20 Section 8-807. [NEW MATERIAL] PARENTAGE PURSUANT TO
21 VALIDATED GESTATIONAL AGREEMENT. --

22 A. Upon birth of a child to a gestational mother,
23 the intended parents shall file notice with the district court
24 that a child has been born to the gestational mother within
25 three hundred days after assisted reproduction. Thereupon, the

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1 district court shall issue an order:

2 (1) confirming that the intended parents are
3 the parents of the child;

4 (2) if necessary, ordering that the child be
5 surrendered to the intended parents; and

6 (3) directing the bureau to issue a birth
7 certificate naming the intended parents as parents of the
8 child.

9 B. If the parentage of a child born to a
10 gestational mother is alleged not to be the result of assisted
11 reproduction, the district court shall order genetic testing to
12 determine the parentage of the child.

13 C. If the intended parents fail to file notice
14 required pursuant to Subsection A of this section, the
15 gestational mother or the appropriate state agency may file
16 notice with the district court that a child has been born to
17 the gestational mother within three hundred days after assisted
18 reproduction. Upon proof of a district court order issued
19 pursuant to Section 8-803 of the Uniform Parentage Act
20 validating the gestational agreement, the district court shall
21 order that the intended parents are the parents of the child
22 and are financially responsible for the child.

23 Section 8-808. [NEW MATERIAL] GESTATIONAL AGREEMENT--
24 EFFECT OF SUBSEQUENT MARRIAGE.--After the issuance of an order
25 pursuant to this article, any subsequent marriage of the

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1 gestational mother does not affect the validity of a
2 gestational agreement, her husband's consent to the agreement
3 is not required and her husband is not a presumed father of the
4 resulting child.

5 Section 8-809. [NEW MATERIAL] EFFECT OF NONVALIDATED
6 GESTATIONAL AGREEMENT. --

7 A. A gestational agreement, whether in a record or
8 not, that is not judicially validated is not enforceable.

9 B. If a birth results pursuant to a gestational
10 agreement that is not judicially validated as provided in this
11 article, the parent-child relationship is determined as
12 provided in Article 2 of the Uniform Parentage Act.

13 C. Persons who are parties to a nonvalidated
14 gestational agreement as intended parents may be held liable
15 for support of the resulting child, even if the agreement is
16 otherwise unenforceable. The liability pursuant to this
17 subsection includes assessing all support, costs, expenses and
18 fees as provided in Section 6-636 of the Uniform Parentage Act
19 and is subject to the limitations in that section.

20 ARTICLE 9

21 MISCELLANEOUS PROVISIONS

22 Section 9-901. [NEW MATERIAL] UNIFORMITY OF APPLICATION
23 AND CONSTRUCTION. --In applying and construing the Uni form
24 Parentage Act, consideration shall be given to the need to
25 promote uniformity of the law with respect to its subject

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1 matter among states that enact it.

2 Section 9-902. [NEW MATERIAL] SEVERABILITY CLAUSE. -- If
3 any provision of the Uniform Parentage Act or its application
4 to a person or circumstance is held invalid, the invalidity
5 does not affect other provisions or applications of the Uniform
6 Parentage Act that can be given effect without the invalid
7 provision or application, and to this end the provisions of the
8 Uniform Parentage Act are severable.

9 Section 9-903. [NEW MATERIAL] TRANSITIONAL PROVISION. -- A
10 proceeding to adjudicate parentage that was commenced before
11 the effective date of the Uniform Parentage Act is governed by
12 the law in effect at the time the proceeding was commenced.

13 Section 10. Section 24-14-13 NMSA 1978 (being Laws 1961,
14 Chapter 44, Section 13, as amended) is amended to read:

15 "24-14-13. BIRTH REGISTRATION. --

16 A. A certificate of birth for each live birth
17 [~~which~~] that occurs in this state shall be filed with the vital
18 statistics bureau of the public health division of the
19 department or as otherwise directed by the state registrar
20 within ten days after the birth and shall be registered if it
21 has been completed and filed in accordance with this section.
22 When a birth, however, occurs on a moving conveyance, a birth
23 certificate shall be registered in this state and the place
24 where the child is first removed shall be considered the place
25 of birth.

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1 B. When a birth occurs in an institution, the
2 person in charge of the institution or his designated
3 representative shall obtain the personal data, prepare the
4 certificate of birth, secure the signatures required and file
5 it as directed in this section. The physician or other person
6 in attendance shall certify the medical information required by
7 the certificate of birth within ten working days after the
8 birth in accordance with policies established by the
9 institution where the birth occurred. The person in charge of
10 the institution or his designee shall complete and sign the
11 certificate of birth.

12 C. When a birth occurs outside an institution, the
13 certificate of birth shall be prepared and filed by one of the
14 following in the indicated order of priority:

15 (1) the physician in attendance at or
16 immediately after the birth;

17 (2) any other person in attendance at or
18 immediately after the birth [~~or in the absence of this person~~];
19 or

20 (3) the father, the mother or, in the absence
21 of the father and the inability of the mother, the person in
22 charge of the premises where the birth occurred.

23 ~~[D. If the mother was married at the time of either~~
24 ~~conception or birth, the name of the husband shall be entered~~
25 ~~on the certificate as the father of the child, unless paternity~~

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1 ~~has been determined pursuant to Subsection F or G of this~~
2 ~~section or by a court, in which case the name of the father as~~
3 ~~determined by the court shall be entered.~~

4 ~~E. If the mother was not married at the time of~~
5 ~~either conception or birth, but the father has signed an~~
6 ~~acknowledgment of paternity as provided by this section, the~~
7 ~~father's name, date of birth and social security number shall~~
8 ~~be entered on the acknowledgement of paternity. The name of~~
9 ~~the father shall not be entered on the certificate of birth~~
10 ~~without the written consent of the mother and the person to be~~
11 ~~named as the father, unless a determination of paternity has~~
12 ~~been made by a court, in which case the name of the father as~~
13 ~~determined by the court shall be entered.~~

14 ~~F. At or before the birth of a child to an~~
15 ~~unmarried woman, the person in charge of the institution, a~~
16 ~~designated representative, the attending physician or midwife~~
17 ~~shall:~~

18 ~~(1) provide an opportunity for the child's~~
19 ~~mother and natural father to complete an acknowledgement of~~
20 ~~paternity. The completed affidavit shall be filed with the~~
21 ~~vital statistics bureau of the public health division of the~~
22 ~~department. The acknowledgement shall contain or have attached~~
23 ~~to it:~~

24 ~~(a) a sworn statement by the mother~~
25 ~~consenting to the assertion of paternity;~~

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1 E. The name of the man entered on the birth
2 certificate as the father of the child shall be the man whose
3 father-child relationship with the child is established
4 pursuant to Subsection B of Section 2-201 of the Uniform
5 Parentage Act.

6 [~~H.~~] F. Pursuant to an interagency agreement for
7 proper reimbursement, the vital statistics bureau of the public
8 health division of the department shall make available to the
9 human services department the birth certificate, the mother's
10 and father's social security numbers and paternity
11 acknowledgements. The human services department shall use
12 these records only in conjunction with its duties as the state
13 IV-D agency responsible for the child support program under
14 Title IV-D of the federal Social Security Act. "

15 Section 11. Section 24-14-16 NMSA 1978 (being Laws 1961,
16 Chapter 44, Section 16, as amended) is amended to read:

17 "24-14-16. JUDICIAL PROCEDURE TO ESTABLISH FACTS OF
18 BIRTH. --

19 A. If a delayed certificate of birth is rejected
20 under the provisions of Section 24-14-15 NMSA 1978, a petition
21 may be filed with a court for an order establishing a record of
22 the date and place of the birth and the parentage of the person
23 whose birth is to be registered.

24 B. The petition shall allege that:

25 (1) the person for whom a delayed certificate

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1 of birth is sought was born in this state;

2 (2) no record of birth of the person can be
3 found in the vital statistics bureau of the public health
4 division of the department;

5 (3) diligent efforts by the petitioner have
6 failed to obtain the evidence required in accordance with
7 Section 24-14-15 NMSA 1978;

8 (4) the state registrar has refused to
9 register a delayed certificate of birth; and

10 (5) any other allegations as may be required.

11 C. The petition shall be accompanied by a statement
12 of the registration official made in accordance with Section
13 24-14-15 NMSA 1978 and all documentary evidence [~~which~~] that
14 was submitted to the registration official in support of the
15 registration. The petition shall be sworn to by the
16 petitioner.

17 D. The court shall fix a time and place for hearing
18 the petition and shall give the registration official who
19 refused to register the petitioner's delayed certificate of
20 birth ten days' notice of the hearing. The official or his
21 authorized representative may appear and testify in the
22 proceeding.

23 E. If the court finds from the evidence presented
24 [~~finds~~] that the person for whom a delayed certificate of birth
25 is sought was born in this state, it shall make findings as to

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1 the place and date of birth, parentage and other findings as
2 the case may require and shall issue an order to establish a
3 record of birth. This order shall include the birth data to be
4 registered, a description of the evidence presented in the
5 manner prescribed by Section 24-14-15 NMSA 1978 and the date of
6 the court's action.

7 F. The court shall determine the parent-child
8 relationship of the mother and father pursuant to the
9 provisions of Section 2-201 of the Uniform Parentage Act.

10 [~~F-~~] G. The clerk of the court shall forward each
11 order to the state registrar not later than the tenth day of
12 the calendar month following the month in which it was entered.
13 The order shall be registered by the state registrar and shall
14 constitute the record of birth from which copies may be issued
15 in accordance with Sections 24-14-28 and 24-14-29 NMSA 1978. "

16 Section 12. Section 32A-5-3 NMSA 1978 (being Laws 1993,
17 Chapter 77, Section 130, as amended by Laws 2003, Chapter 294,
18 Section 2 and by Laws 2003, Chapter 321, Section 2) is amended
19 to read:

20 "32A-5-3. DEFINITIONS. --As used in the Adoption Act:

21 A. "accrediting entity" means an entity that has
22 entered into an agreement with the United States secretary of
23 state pursuant to the federal Intercountry Adoption Act of 2000
24 and regulations adopted by the United States secretary of state
25 pursuant to that act, to accredit agencies and approve persons

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1 who provide adoption services related to convention adoptions;

2 B. "adoptee" means a person who is the subject of
3 an adoption petition;

4 C. "adoption service" means:

5 (1) identifying a child for adoption and
6 arranging the adoption of the child;

7 (2) securing termination of parental rights to
8 a child or consent to adoption of the child;

9 (3) performing a background study on a child
10 and reporting on the study;

11 (4) performing a home study on a prospective
12 adoptive parent and reporting on the study;

13 (5) making determinations regarding the best
14 interests of a child and the appropriateness of an adoptive
15 placement for the child;

16 (6) performing post-placement monitoring of a
17 child until an adoption is final; and

18 (7) when there is a disruption before an
19 adoption of a child is final, assuming custody of the child and
20 providing or facilitating the provision of child care or other
21 social services for the child pending an alternative placement
22 of the child;

23 D. "agency" means a person certified, licensed or
24 otherwise specially empowered by law to place a child in a home
25 in this or any other state for the purpose of adoption;

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1 E. "agency adoption" means an adoption when the
2 adoptee is in the custody of an agency prior to placement;

3 F. "acknowledged father" means a father: [~~who-~~
4 ~~(1) acknowledges paternity of the adoptee~~
5 ~~pursuant to the putative father registry, as provided for in~~
6 ~~Section 32A-5-20 NMSA 1978;~~]

7 (1) whose father-child relationship with the
8 adoptee is established pursuant to the provisions of Subsection
9 B of Section 2-201 of the Uniform Parentage Act and whose
10 parental rights have not been relinquished or terminated;

11 (2) who registers with respect to the adoptee
12 with the registry of paternity as provided for in Section 4-401
13 of the Uniform Parentage Act;

14 [~~(2)~~] (3) who is named, with his consent, as
15 the adoptee's father on the adoptee's birth certificate;

16 [~~(3)~~] (4) who is obligated to support the
17 adoptee under a written voluntary promise or pursuant to a
18 court order; or

19 [~~(4)~~] (5) who has openly held out the adoptee
20 as his own child by establishing a custodial, personal or
21 financial relationship with the adoptee as follows:

22 (a) for an adoptee under six months old
23 at the time of placement: 1) has initiated an action to
24 establish paternity; 2) is living with the adoptee at the time
25 the adoption petition is filed; 3) has lived with the mother a

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1 minimum of ninety days during the two-hundred-eighty-day-period
2 prior to the birth or placement of the adoptee; 4) has lived
3 with the adoptee within the ninety days immediately preceding
4 the adoptive placement; 5) has provided reasonable and fair
5 financial support to the mother during the pregnancy and in
6 connection with the adoptee's birth in accordance with his
7 means and when not prevented from doing so by the person or
8 authorized agency having lawful custody of the adoptee or the
9 adoptee's mother; 6) has continuously paid child support to the
10 mother since the adoptee's birth in an amount at least equal to
11 the amount provided in Section 40-4-11.1 NMSA 1978, or has
12 brought current any delinquent child support payments; or 7)
13 any other factor the court deems necessary to establish a
14 custodial, personal or financial relationship with the adoptee;
15 or

16 (b) for an adoptee over six months old
17 at the time of placement: 1) has initiated an action to
18 establish paternity; 2) has lived with the adoptee within the
19 ninety days immediately preceding the adoptive placement; 3)
20 has continuously paid child support to the mother since the
21 adoptee's birth in an amount at least equal to the amount
22 provided in Section 40-4-11.1 NMSA 1978, or is making
23 reasonable efforts to bring delinquent child support payments
24 current; 4) has contact with the adoptee on a monthly basis
25 when physically and financially able and when not prevented by

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1 the person or authorized agency having lawful custody of the
2 adoptee; or 5) has regular communication with the adoptee, or
3 with the person or agency having the care or custody of the
4 adoptee, when physically and financially unable to visit the
5 adoptee and when not prevented from doing so by the person or
6 authorized agency having lawful custody of the adoptee;

7 G. "alleged father" means an individual whom the
8 biological mother has identified as the biological father, but
9 the individual ~~[has not acknowledged paternity or registered~~
10 ~~with the putative father registry as provided for in Section~~
11 ~~32A-5-20 NMSA 1978]~~ is not an acknowledged father and whose
12 parental rights have not been relinquished or terminated;

13 H. "consent" means a document:

14 (1) signed by a biological parent whereby the
15 parent grants consent to the adoption of the parent's child by
16 another; or

17 (2) whereby the department or an agency grants
18 its consent to the adoption of a child in its custody;

19 I. "convention adoption" means:

20 (1) an adoption by a United States resident of
21 a child who is a resident of a foreign country that is a party
22 to the Hague Convention on Protection of Children and Co-
23 operation in Respect of Intercountry Adoption; or

24 (2) an adoption by a resident of a foreign
25 country that is a party to the Hague Convention on Protection

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1 of Children and Co-operation in Respect of Inter-country
2 Adoption of a child who is a resident of the United States;

3 J. "counselor" means a person certified by the
4 department to conduct adoption counseling in independent
5 adoptions;

6 K. "department adoption" means an adoption when the
7 child is in the custody of the department;

8 L. "former parent" means a parent whose parental
9 rights have been terminated or relinquished;

10 M. "full disclosure" means mandatory and continuous
11 disclosure by the investigator, agency, department or
12 petitioner throughout the adoption proceeding and after
13 finalization of the adoption of all known, nonidentifying
14 information regarding the adoptee, including:

- 15 (1) health history;
- 16 (2) psychological history;
- 17 (3) mental history;
- 18 (4) hospital history;
- 19 (5) medication history;
- 20 (6) genetic history;
- 21 (7) physical descriptions;
- 22 (8) social history;
- 23 (9) placement history; and
- 24 (10) education;

25 N. "independent adoption" means an adoption when

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1 the child is not in the custody of the department or an agency;

2 0. "investigator" means an individual certified by
3 the department to conduct pre-placement studies and post-
4 placement reports;

5 P. "mother" means an individual whose mother-child
6 relationship with the adoptee is established pursuant to the
7 provisions of Subsection A of Section 2-201 of the Uniform
8 Parentage Act and whose parental rights have not been
9 relinquished or terminated;

10 [~~P.-~~] Q. "office" means a place for the regular
11 transaction of business or performance of particular services;

12 [~~Q.-~~] R. "parental rights" means all rights of a
13 parent with reference to a child, including parental right to
14 control, to withhold consent to an adoption or to receive
15 notice of a hearing on a petition for adoption;

16 [~~R.-~~] S. "placement" means the selection of a family
17 for an adoptee or matching of a family with an adoptee and
18 physical transfer of the adoptee to the family in all adoption
19 proceedings, except in adoptions filed pursuant to Paragraphs
20 (1) and (2) of Subsection C of Section 32A-5-12 NMSA 1978, in
21 which case placement occurs when the parents consent to the
22 adoption, parental rights are terminated or parental consent is
23 implied;

24 [~~S.-~~] T. "post-placement report" means a written
25 evaluation of the adoptive family and the adoptee after the

underscored material = new
[bracketed material] = delete

1 adoptee is placed for adoption;

2 ~~[T.]~~ U. "pre-placement study" means a written
3 evaluation of the adoptive family, the adoptee's biological
4 family and the adoptee;

5 ~~[U.]~~ V. "presumed father" means

6 ~~[(1) the husband of the biological mother at
7 the time the adoptee was born;~~

8 ~~(2) an individual who was married to the
9 mother and either the adoptee was born during the term of the
10 marriage or the adoptee was born within three hundred days
11 after the marriage was terminated by death, annulment,
12 declaration of invalidity or divorce; or~~

13 ~~(3) before the adoptee's birth, an individual
14 who attempted to marry the adoptee's biological mother by a
15 marriage solemnized in apparent compliance with law, although
16 the attempted marriage is or could be declared invalid and if
17 the attempted marriage:~~

18 ~~(a) could be declared invalid only by a
19 court, the adoptee was born during the attempted marriage or
20 within three hundred days after its termination by death,
21 annulment, declaration of invalidity or divorce; or~~

22 ~~(b) is invalid without a court order,
23 the adoptee was born within three hundred days after the
24 termination of cohabitation] an individual who is presumed to
25 be the father of the child pursuant to Section 2-201 of the~~

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underscored material = new
[bracketed material] = delete

1 Uniform Parentage Act;

2 [V-] W. "record" means any petition, affidavit,
3 consent or relinquishment form, transcript or notes of
4 testimony, deposition, power of attorney, report, decree,
5 order, judgment, correspondence, document, photograph, invoice,
6 receipt, certificate or other printed, written, videotaped or
7 tape-recorded material pertaining to an adoption proceeding;

8 [W-] X. "relinquishment" means the document by
9 which a parent relinquishes parental rights to the department
10 or an agency to enable placement of the parent's child for
11 adoption;

12 [X-] Y. "resident" means a person who, prior to
13 filing an adoption petition, has lived in the state for at
14 least six months immediately preceding filing of the petition
15 for adoption or a person who has become domiciled in the state
16 by establishing legal residence with the intention of
17 maintaining the residency indefinitely; and

18 [Y-] Z. "stepparent adoption" means an adoption of
19 the adoptee by the adoptee's stepparent when the adoptee has
20 lived with the stepparent for at least one year following the
21 marriage of the stepparent to the custodial parent. "

22 Section 13. REPEAL. -- Sections 32A-5-20 and 40-11-1
23 through 40-11-23 NMSA 1978 (being Laws 1993, Chapter 77,
24 Section 147 and Laws 1986, Chapter 47, Sections 1 through 23,
25 as amended) are repealed.

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